IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Sunit B. Mangalvedhekar
U.S. Patent Serial No.:	10/085,218
Filing Date:	February 27, 2002
Examiner:	Jason D. Recek
Group No.:	2142
Confirmation No.:	6967
Title:	*ELECTRONIC FILE MANAGEMENT*

Mail Stop - AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicant respectfully requests reconsideration of the rejection of Claim 12 in light of the remarks set forth below.

REMARKS

Applicant seeks review of the rejection of Claim 12. Applicant does not seek review in this Request of the rejections of Claims 1-2, 4-11, 13-14, 16-25, 27-35, and 37-50. In the Final Office Action mailed December 27, 2007 ("Final Office Action"), Claim 12 was rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,854,009 to Hughes ("Hughes"). Applicant requests a finding that this rejection is improper, and further requests allowance of Claim 12.

Claim 12 depends from Independent Claim 1. As a result, Claim 12 includes the following limitations from Claim 1:

> requesting, by *the client*, downloading of a selected file residing in *the server*, the selected file needing access, either directly or indirectly, to at least one associated file in order to be used, the selected file including instructions to access the at least one associated file ...

(emphasis added).

In rejecting the limitations of Claim 1 (which are included in dependent Claim 12), the Final Office Action points to the passages at Col. 7, Line 65 - Col. 8, Line 1, and Col. 8, Lines 5-8 of *Hughes*. *See Final Office Action*, Pages 2-3. Thus, the Final Office Action relies on the client 132, 141a of *Hughes* as disclosing "the client" of Claim 12, and further relies on the server 204 of *Hughes* as disclosing "the server" of Claim 12.

Claim 12 further includes the following limitations:

> generating, by *the client*, the one or more files for uploading to *the server*;
> generating, by *the client*, a profile associated with each of the one or more files; and
> uploading, by *the client*, the profile and the each of the one or more files to *the server*.

(emphasis added).

The Final Office Action relies on the server 204 of *Hughes* and the local server 140 of *Hughes* to disclose these limitations. *See Final Office Action*, Page 3 (stating "[t]he profiles are generated by the configuration server depending on what files are requested (col. 8 ln. 5-8, 38-40) these profiles and files are then 'uploaded' to the local server (col. 5 ln. 30-32)"). That is—despite already relying on the client 132, 141a of *Hughes* as disclosing "the client" of Claim 12, and the server 204 of *Hughes* as disclosing "the server" of Claim 12—the Final

Office Action points to server 204 of *Hughes* (which is already being relied upon to disclose "the server" of Claim 12) as disclosing "the client" of Claim 12, and further points to the local server 140 of *Hughes* as disclosing "the client" of Claim 12 (which is already allegedly disclosed by the client 132, 141a of *Hughes*).

Without addressing the accuracy of any of these points of reliance, Applicant respectfully submits that they are inconsistent and improper. For at least this reason, *Hughes* fails to disclose the limitations of Claim 12. Accordingly, Applicant contends that the rejection of Claim 12 is improper. Favorable action is requested.

Claim 12 further includes the limitation "the selected file further being associated with at least one profile identifying, for download, only the at least one associated file." The Final Office Action concedes that the user profile of *Hughes* does not disclose this limitation of Claim 12. *See Final Office Action*, Page 2 (stating "[t]he user profile identifies the selected file ... but does not identify the associated files"). Instead, the Final Office Action relies on the passage at Col. 8, Lines 5-8 of *Hughes* as disclosing this limitation. *See Final Office Action*, Pages 2-3. This reliance is incorrect.

According to the passage at Col. 8, Lines 5-10 of *Hughes*:

> Server 204 dynamically puts all the needed files together (including any files needed by one of the applications to run cooperatively with another of the applications, and frequently-used files), and downloads just those files into the main memory (system RAM--not the hard drive) of the client 132, 141a.

That is, the passage discloses that the server 204 collects the needed files and downloads those files to the client. The passage, however, *fails to disclose anything about a profile*. As a result, the passage clearly fails to disclose "the selected file further being associated with *at least one profile identifying, for download, only the at least one associated file*" of Claim 12 (emphasis added).

Furthermore, Applicant respectfully notes that although Page 3 of the Final Office Action states that the passage at Col. 5, Lines 5-8 discloses "the server creat[ing] a profile that only identifies the required associated files and download[ing] those files to the client (col. 8 ln. 5-8)," the passage of *Hughes* fails to even mention profiles, as discussed above, let alone creating profiles.[1] Instead, the passage merely discloses that the server 204 collects the

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1 Since *Hughes* provides no support for this statement, Applicant does not address whether such statement would disclose the limitation of Claim 12.

needed files and downloads those files to the client. In fact, contrary to disclosing that "the server creates a profile," as is alleged at Page 3 of the Final Office Action, *Hughes* expressly discloses that *the server 204 uses the user profile of Hughes* to collect and download the needed files:

> When a client connects to the network server 200, the initial configuration server 204 performs a look up in a profile database to determine what operating systems and applications are included in *the user's profile. Based on the profile, the initial configuration server 204 fetches all of the basic files* needed to run each OS and application, puts them together into one block, *and downloads them to the client.*
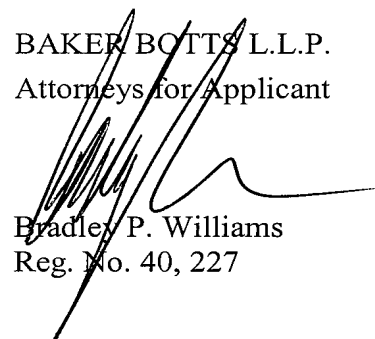
See Hughes, Col. 7, Line 65 - Col. 8, Line 4 (emphasis added). According to the passage, the server 204 collects and downloads the files based on the user profile of *Hughes*. That is, in order to collect and download the files, the server 204 uses the same *user profile of Hughes* that the Final Office Action already *concedes does not meet the limitation of Claim 12. See Final Office Action*, Page 2.

For at least this additional reason, *Hughes* fails to disclose the limitations of Claim 12. Accordingly, Applicant contends that the rejection of Claim 12 is improper. Favorable action is requested.

CONCLUSION

As the rejections of Claim 12 contains clear deficiencies, Applicant respectfully requests a finding of allowance of Claim 12. To the extent necessary, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

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